

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

JAMES C. WINDING

PLAINTIFF

VS.

CIVIL ACTION NO. 4:11cv192-FKB

GEO GROUP, et al.

DEFENDANTS

MEMORANDUM & OPINION

James C. Winding is a state prisoner incarcerated at East Mississippi Correctional Facility (EMCF). He brought this action pursuant to § 1983 alleging that on November 15, 2011, he suffered injuries as a result of exposure to a chemical agent sprayed in a nearby cell and that he was denied medical care for his injuries. A *Spears*¹ hearing has been held, and the parties have consented to jurisdiction by the undersigned.

In his testimony at the *Spears* hearing, Plaintiff admitted that he has failed to complete the Administrative Remedies Program (ARP) process for his claims. He stated that although he has filed an ARP grievance regarding these events, the grievance is still in “backlog” because of the number of prior grievances filed by him which remain pending.

The Prison Litigation Reform Act (PLRA) requires an inmate to exhaust administrative remedies before bringing an action with respect to prison conditions. 42 U.S.C. § 1997(e). The exhaustion requirement is mandatory and “applies to all inmate suits about prison life, whether they involve general circumstances or particular episodes.” *Porter v. Nussle*, 534 U.S. 516, 532 (2002). Dismissal is appropriate where an inmate has failed to meet the exhaustion requirement. *Alexander v. Tippah Cnty., Miss.*, 351

¹See *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985).

F.3d 626, 630 (5th Cir. 2003).

For this reason, this action is dismissed without prejudice so that Plaintiff may be pursue his administrative remedies. A separate judgment will be entered.

SO ORDERED this the 5th day of June, 2012.

/s/ F. Keith Ball

UNITED STATES MAGISTRATE JUDGE